



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE
DALLAS, TEXAS 75202-2733

MARCH 13, 2008

Mr. Edward Pensock, Jr. P.E.
Director Corridor Systems
Texas Department of Transportation-Texas Turnpike Authority
P.O. box 14428
Austin, Texas 78761

Re: I-69/Trans Texas Corridor Tier One Draft Environmental Impact Statement

Dear Mr. Pensock:

Thank you for the opportunity to review the Tier One Draft Environmental Impact Statement (DEIS) document dated November 2007, for the proposed I-69/Trans Texas Corridor (TTC) project. The purpose of the project is to improve the international interstate and intrastate movement of goods and people; address anticipated south and east Texas transportation needs for the next 20 to 50 years; and sustain and enhance the economic vitality of Texas. Alternatives considered during the development of the DEIS include the No-Action Alternative, the Use of Existing/Planned Transportation Facilities, and the New Location Corridor Alternative consisting of 75 Reasonable Corridor Alternatives (RCAs) and seven Reasonable Connector Corridors.

The document is conceptual in nature and presents a program-level analysis of potential impact scenarios associated with the RCAs. It addresses the potential scope of the project and provides technical information, including purpose and need, development and evaluation of alternatives, natural resources potentially affected, socio-economics, environmental justice, cultural resources, air quality, transportation planning, and other general background information. The document does not involve authorization of any construction, or acquisition of rights-of-way and no decision will be made on whether to build the project or to identify a preferred alignment. Once the Tier One document is approved, a Tier Two document will be prepared to address site specific alignment alternatives, project impacts, costs, and mitigation measures.

The following comments are offered for awareness and consideration to assist the Federal Highway Administration (FHWA) and The Texas Department of Transportation (TxDOT) in the

decision making process, minimize the potential negative impacts of the proposed action, and protect and enhance the natural and human environment.

General

The Purpose and Need statement includes sustaining and enhancing the economic vitality of Texas, and makes it necessary to evaluate the current socio-economic and political structures, and the potential beneficial and adverse impacts of the proposed project. The project has the potential to dramatically alter the environmental, socio-economic and political nature of East Texas.

Air

Depending on the ultimate corridor chosen, the I-69/TTC project may impact many counties that are in or near non-attainment for the 8-hour ozone standard.

Section 176(c) of the Clean Air Act states that no federal agency shall engage in, support in any way, provide financial assistance for, license, permit, or approve any activity which does not conform to a State Implementation Plan (SIP). To assist federal agencies in complying with the requirement, EPA promulgated several regulations regarding general and transportation conformity. These regulations require federal agencies to evaluate the air quality impact of their actions to ensure conformity with the SIP. Transportation conformity regulations, found at 40 CFR part 93 subpart A, apply to actions taken by the FHWA and the Federal Transit Administration (FTA); general conformity regulations, found at 40 CFR Part 93, Subpart B, apply to all other agencies.

This DEIS discusses the requirements of transportation conformity and appropriately outlines how the individual segments of the project will meet these requirements during the Tier Two process if this project proceeds. However, this DEIS is silent on general conformity. Please note that federal actions in non-attainment or maintenance areas may trigger a general conformity applicability analysis. It is the duty of each federal agency taking the action to demonstrate that the action taken will not interfere with the purpose of the SIP. More information on general conformity can be found at 58 FR 63214.

The DEIS commits to performing a Mobile Source Air Toxics analysis in the Tier Two document, as appropriate, and in accordance with current FHWA and EPA rules and guidelines.

Environmental Justice

The environmental justice implications relating to the selection of the transportation corridor are important for all residents. In addition to considering demographics, such as income levels, educational levels, age levels, proximity and density of polluting facilities, the DEIS should also consider other factors in order to avoid disparate and adverse impacts on environmental justice (EJ) communities in the selection, construction, and eventual use of the I-69 corridor. EPA's publication, *Toolkit for Assessing Potential Allegations of Environmental Injustice* (U.S. EPA,

February 2006) offers important guidelines to use when considering environmental justice relating to government policies, practices and activities.

The conversion, fragmentation, or degradation of agricultural lands could impact small farm operations, as well as tenant farmers throughout the proposed corridor. Owners of large farms may have resources to allow them to rebound from any negative impacts more easily. Some small sections of land, whether in cultivation or not, have been passed down from generation to generation in African-American families in east Texas and northwestern Louisiana since before the turn of the century. This land is part of the cultural heritage of these families, and consideration should be given to minimize the impacts. The *colonias* in the counties of Webb, Hidalgo, Cameron and Willacy would be especially impacted regarding acquisition of land. Any buyouts of *colonia* residents' land and homesteads would likely place a greater hardship on them than on middle-class residents since it would be difficult or impossible to relocate elsewhere at comparable costs.

Wildlife habitat destruction and alteration could impact vulnerable EJ communities that engage in subsistence fishing and hunting throughout the proposed corridor in rural areas. This would especially pose a problem in northeast Texas, and near Livingston, in the area of the Alabama Couthatta Indian Reservation. The World Birding Center is located near Mission, Texas, a few miles from McAllen, and birding is a major tourist attraction there and in other areas of south Texas. Several other birding centers are located in nearby towns, as well. Destruction and alteration of wildlife habitat would pose a serious problem for the tourist industry, but also for low-income residents employed in service positions in motels, restaurants, etc. catering to this industry. Part of the proposed corridor includes a large section of the migratory route of the birds that play such a large economic role in south Texas. Low-income residents could be economically devastated as a result of the construction activities and habitat destruction. Since south Texas has the lowest income levels in Texas, this should be a particular consideration.

The DEIS indicates that care will be taken to avoid affecting cultural resources, such as historic sites, large historic ranches, historic buildings, etc. Similar consideration should be employed regarding small tribal and archeological areas, many of which are too small to have state archeological site designation. The Big Thicket near Livingston should be protected at all cost, not only because of ecological concerns, but because of its special significance to the Alabama Couthatta Indians.

Careful consideration should also be given to transportation and emergency evacuation issues during the Tier Two phase of I-69/TTC. When completed, the corridor will provide an opportunity for improvement in movement of people and equipment in the event of the need for emergency response to disasters; however, entry access should not be limited in rural areas, such that it imposes an adverse impact on low-income residents.

The potential cumulative impact of the I-69/TTC on low-income communities would be greater in certain areas than in others. The cumulative or synergistic effects on vulnerable EJ communities of air pollution, water pollution, soil contamination, hazardous waste, decreased economic resources, fragmentation or sale of land of low-income small landowners could be

significant. Although increased economic opportunities may result from the construction and use of the I-69/TTC project, the potential negative cumulative impacts on low-income populations should be closely examined, and mitigation measures should be employed.

Water

Regardless of which RCA and eventual alignment is chosen, the project will cross the major rivers in Texas and their floodplains, in addition to many smaller streams. Each crossing will have some direct impact on the aquatic ecosystem (riparian habitat, stream channels, wetlands, tidally influenced waters, etc.). Every crossing of a major river floodplain will impact potentially dozens to hundreds of acres of floodplain and wetlands, much of which are forested. There will also be indirect impacts such as habitat fragmentation, water quality effects, and changes to stream channel morphology that may cause channel instability that need to be considered. The cumulative impact of many new crossings across the landscape will be significant.

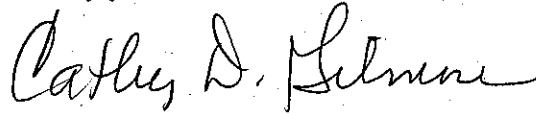
The National Environmental Policy Act (NEPA) requires that resources examined for potential impacts include those potentially subject to direct, secondary and cumulative impacts. In analyzing the potential for impacts under NEPA, FHWA must examine all wetlands and other aquatic resources in the project area. Tier Two analysis should have enough detail to be able to distinguish relative impacts between alternative alignments. It should also be able to distinguish vegetation cover types within floodplains and wetlands (i.e. forested, shrub, herbaceous).

The maps created using GISST (GIS Screening Tool) indicate the areas where wetlands occur in high density (where wetlands occupy > 40% of a 1 square kilometer grid cell). These maps (e.g. Figures 2.80, 2.81, Vol. II) show high density of wetlands along some floodplains (Sabine, Neches, Angelina Rivers). However, other floodplains show no wetlands within the Reasonable Corridors where significant acreages of wetlands are known to exist (e.g. Big Cypress Bayou, Little Cypress Bayou, Black Cypress Bayou). We also note that floodplains are not shown for the Sabine River and Big Cypress Bayou systems (Figure 2.76, Vol. IV). Also, there are other wetlands within the RCAs that are too small for the GISST to reveal. For example on the coastal plain (west and southwest of Houston), there are many small depressional wetlands that the GISST maps do not indicate (Figures 2.78, 2.79, Vol. IV). Tier Two analysis should identify such areas and make efforts to avoid and minimize impacts to them where possible.

The EPA Region 6 Water Quality Protection Division is willing to help FHWA and TxDOT identify EPA-funded projects that may be affected by the many possible corridors. Sharon Parrish can be contacted on this matter at (214) 665-7275.

If you have any questions regarding these comments please feel free to contact me at (214) 665-6766.

Sincerely yours,

A handwritten signature in cursive script, reading "Cathy D. Gilmore".

Cathy D. Gilmore
Chief, Office of Planning and Coordination

cc: Doug Booher
Texas Department of Transportation
Tom Bruechert
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bcc: Judith McCulley, 6EN-X
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